

## REMARKS

Claims 89 and 130-177 are now pending in the application.

Applicants are pleased to note that the Examiner has withdrawn the 35 U.S.C. § 102 (b) and 35 U.S.C. § 103 (a) rejections set forth in the previous Office Action mailed November 15, 2005.

### **Claim Rejections under 35 U.S.C. § 112**

The Examiner has rejected claims 89 and 130-177 under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The Examiner alleges that the entire specification is directed to purines or pyrimidines and not to pyrrolopyrimidines, and that pyrrolopyrimidines were not mentioned or contemplated. Applicants respectfully traverse this rejection.

The specification discloses compounds of the general formula recited in claim 89 on pages 15 and 40 (Formula XVII) of the specification. The structures of the compounds recited in claim 130 are disclosed on pages 13 and 29 (Formulas X and XI) of the specification. The specification discloses that Base in the compounds of Formulas XVII, X and XI is “a purine or pyrimidine base as defined herein”. On page 53, line 11 of the specification, purine or pyrimidine base is defined to include pyrrolopyrimidinyl. Contrary to the Examiner’s assertion that pyrrolopyrimidines were not “mentioned or contemplated”, Applicants included this base in a short list of potential purine or pyrimidine bases. The disclosure in the specification clearly supports the present claims.

The Examiner has also rejected the status of the present application as a proper Continuation application, asserting that the subject matter in the claims is not supported by the priority document, and that the application should be afforded a Continuation-In-Part status with a priority date of June 20, 2003 rather than May 23, 2000. Contrary to the Examiner’s assertion, the definition of purine or pyrimidine base that includes pyrrolopyrimidinyl is present in the priority application. Provisional Application No. 60/206,585 filed on May 23, 2000, to which this application claims priority, discloses compounds of Formulas XVII, X and XI on page 14,

and 35, wherein "Base is a purine or pyrimidine base as described herein". The definition of purine or pyrimidine on page 47 of the provisional application includes "pyrrolopyrimidinyl". Therefore, the claims are supported by the present application as well as the priority document. Since the subject matter of the pending claims was originally disclosed in the parent application No. 10/602,691, as well as the priority provisional application No. 60/206,585, Applicants submit that the present application is a proper Continuation application, not a Continuation-In-Part application, and should be afforded a priority date of May 23, 2000. Withdrawal of the rejection is respectfully requested.

#### **Claim Rejections under 35 U.S.C. § 102**

The Examiner has rejected claims 1-143, 148-152, 155-160, 165-168, 171-175 and 177 as anticipated by U.S. Patent Application Publication No. U.S. 2004/0063658 to Roberts et al. (Roberts). Claims 1-88 and 90-129 were previously cancelled. Roberts claims the benefit of priority to U.S. Provisional Application No. 60/378,624 filed on May 6, 2002 and Provisional Application No. 60/392,871 filed on June 28, 2002. As noted above, Provisional Application No. 60/206,585, the priority document for the present application, was filed on May 23, 2000. This filing date predates the earliest priority date relied on by Roberts, May 6, 2002. Withdrawal of the rejection is respectfully requested.

#### **Claim Rejections under 35 U.S.C. § 103**

The Examiner has rejected claims 89 and 130-177 as obvious over Roberts and U.S. 6,277,830 to Ganguly et al. (Ganguly). As noted above, the present application claims priority to Provisional Patent Application No. 60/206,585, filed on May 23, 2000. The earliest priority claimed by Roberts is U.S. Provisional Application No. 60/378,624 filed on May 6, 2002, after the filing date of the present application. Therefore, it is submitted that Roberts is not prior art to the present claims. Ganguly describes 5'-esters of ribavirin, pharmaceutical compositions comprising 5'-esters of ribavirin and methods to treat HVC with the disclosed compounds. Ganguly discloses that the compounds may be combined with other anti-viral agents, including

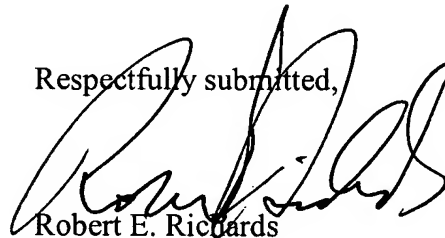
interferon. There is no suggestion in Ganguly of the use of the compounds recited in the present claims for the treatment of HCV alone or in combination with other agents. Withdrawal of the rejection is respectfully requested.

### **Conclusion**

Applicants respectfully submit that the current response and amendment overcomes the Examiner's rejections. Withdrawal of the outstanding rejections is respectfully requested.

The Commissioner is authorized to charge any fee associated with this filing to Deposit Account 11-0980.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Robert E. Richards', is written over the typed name.

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